

REMARKS/ARGUMENTS

Claims 1,2, 4-6, 8-11, 13-15,17, 18, 20-33, and 39-41 are pending in this application. Claims 10, 14, 22, 26, 30 and 39 are currently amended. In view of the following amendments and remarks, Applicants respectfully request reconsideration of the application.

I. Rejection Under 35 USC § 112

Claims 10, 11, 13-15, 17, 23, 29, 39 and 40 were rejected under 35 USC § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicants regard as their invention.

Applicants respectfully traverse.

The Examiner claims that claims 10 and 39 are ambiguous as it is unclear as to what is meant by "one of the jaw portion(s) (being) flexible in an outward direction and biased in an inward direction" as there is only one jaw portion in the first member. Furthermore, the Examiner claims that there is no antecedent basis for "the inner surfaces" in claim 23 and "the ends of said jaw portions" in claim 29.

Claims 10 and 39 have been amended to remove the phrase "one of" in order to correct the indefiniteness problem. Claim 22 has been amended to add the phrase "the notch having inner surfaces and" to correct the antecedent basis problem of claim 23. Claim 26 has been amended to add the phrase "said jaw portion having an end" to correct the antecedent basis problem of claim 29.

These amendments were made only to correct the indefiniteness rejections, and not for reasons of patentability. These amendments correct any alleged indefiniteness problems, and Applicants therefore respectfully request that the § 112 rejections of these claims be withdrawn.

Furthermore, as claims 11, 13-15, and 17 depend from claim 10, which has been corrected by this amendment, Applicants respectfully request that the § 112 rejection of these claims also be withdrawn. As claim 23 depends from claim 22, which has been corrected by this amendment, Applicants respectfully request that the § 112 rejection of this claim also be withdrawn. As claim 29 depends from claim 26, which has been corrected by this amendment, Applicants respectfully request that the § 112 rejection of this claim also be withdrawn. Finally, as claim 40 depends from claim 39, which has been corrected by this amendment, Applicants respectfully request that the § 112 rejection of this claim also be withdrawn.

II. Rejection Under 35 U.S.C. § 102(b)

a. Claims 1, 2, 4, 18, 20, 21, 24, 25, 30, 31, and 41

Claims 1, 2, 4, 18, 20, 21, 24, 25, 30, 31, and 41 were rejected under 35 U.S.C. § 102(b) as being anticipated over any of Stratman, Sarvie ('697) or Bothum. Applicants respectfully traverse.

The Examiner claims that these three cited patents each show two single piece members with handle and jaw portions with a clamp bar on one member extending into an opening on the other member with the opening upper and lower surfaces providing a guiding means, and a brake lever pivotally engaged within a notch formed in the other member.

Applicants respectfully disagree with the Examiner's characterization of these three patents. In all three cases, the Examiner appears to have misunderstood the "notch" feature claimed in the present application. In all the claims rejected under 35 USC § 102(b), the limitation that the handle portion of the second member has a notch defined on it that extends at least partially into the handle portion of the second member. The brake lever recited in the claims is pivotally coupled to the second member at this notch. Claims 10, 14, 26 and 30 have been amended to add this limitation. This limitation was already present in claim 1, on which claims 2 and 4 depend; claim 41, on which claims 18, 20 and 21 depend; claims 24 and 25; and claim 30, on which claim 31 depends.

None of the cited art teaches or suggests such a feature. Stratman teaches an opening in the brake lever that is frictionally engaged with the clamp bar. But, there is no mention of a notch defined in either of the handle members. The Examiner appears to be equating the opening in the brake lever with such a notch. It is clear from the claims in the present application that the notch is defined in a handle member, and there is a separate opening in the brake lever

for the clamp bar to extend through. Furthermore, the claims of the present application recite the limitation that the brake lever be pivotally coupled to one of the two members at the notch. This arrangement is clearly shown in the figures of the present invention. The notch is defined as element 54 or 154, and an end of the brake lever is pivotally coupled to this notch in order to assist the locking mechanism. The brake lever, when rotated, releases from the notch and allows the jaw members to move freely.

There is no notch shown or suggested in Stratman. In Stratman, the brake lever is pivotally connected to one of the handles at element 14, which appears to be a axle-type means. This is especially evident in Figure 3 of Stratman. A notch defined in one of the handle portions is simply not shown or suggested in Stratman. Nor would it be obvious to make such a drastic change to the locking mechanism of Stratman, since this would require a repositioning or drastic lengthening of the brake lever in order to allow it to interact with an added notch on the handle member. Therefore, the § 102(b) rejection over Stratman of claims 1, 24, 25, 30, and 41 should be withdrawn. Furthermore, as claims 2, 4, 18, 20, 21 and 31 depend from these allowable claims, they are allowable as well.

With respect to Sarvie '697, the same argument applies. Sarvie '697 does not teach or suggest a notch in one of the handle members with which an end of the brake lever is pivotally coupled. Again, the Examiner has mistakenly equated

the opening defined as element 26 in Sarvie '697 with the notch defined in one of the handle members of the present application. This aperture is frictionally related to the clamp bar 25 in Sarvie '697. The clamp bar 25 extends through the aperture 26. The brake lever 39 of Sarvie '697 does not have an end that is pivotally coupled with this aperture. Therefore, even if this aperture could be equated to a notch, it does not have the same type of pivotal relationship with the notch as the brake lever in the present application. Furthermore, it would not be obvious to add such a notch, since doing so would require a complete redesign of the brake lever of Sarvie '697.

Since Sarvie '697 does not recite or suggest each and every feature claimed in claims 1, 24, 25, 30, and 41, the § 102(b) rejection over Sarvie '697 should be withdrawn. Furthermore, as claims 2, 4, 18, 20, 21 and 31 depend from these allowable claims, they are allowable as well.

With respect to Bothum, there is no notch shown or suggested that extends partially into the handle portion of one of the handle members. Bothum shows an extension 25 of one of the handle members that has an opening 26 defined therein. This extension 25 is not a notch, nor is the opening 26. They are also not equivalent to a notch. The notch claimed in the present application is defined as extending *from an outer surface* of one of the handle portions *at least partially into the handle portion*. It is not an extension of the handle portion, and it is not an opening defined on an extension of the handle portion.

Additionally, because of the interaction between the brake lever and the opening 26 of Bothum, score marks 29 are required to keep the lever positioned within the opening 26. The arrangement claimed in the present invention does not require such score marks because of the design of the notch in one of the handle members. Moreover, it would not be obvious to completely redesign the handle portion of Bothum in order to provide such a notch and brake lever interaction.

Since Bothum does not recite or suggest each and every feature claimed in claims 1, 24, 25, 30, and 41, the § 102(b) rejection over Sarvie '697 should be withdrawn. Furthermore, as claims 2, 4, 18, 20, 21 and 31 depend from these allowable claims, they are allowable as well.

III. Rejection Under 35 U.S.C. § 103(a)

a. Claims 5, 6, 8-10, 14, 15, 17, 22, 23, 26-29, 32, 33, 39, and 40

Claims 5, 6, 8-10, 14, 15, 17, 22, 23, 26-29, 32, 33, 39, and 40 were rejected under § 103(a) as being unpatentable over any of Stratman, Sarvie '697, or Bothum in view of Wolff et al. The Examiner states that any of Stratman, Sarvie '697, or Bothum show the claimed invention except for the use of a plastic material construction, and that Wolff et al. suggests that a pliers type of clamp can be made of plastic material to allow it to be flexible. Applicants respectfully traverse.

While Wolff et al. may suggest the use of plastic material, it remains that none of Stratman, Sarvie '697 or Bothum show the notch as described

previously. Therefore, any combination of these pieces of art with Wolff et al. would still not show or suggest each and every feature of the claimed invention. Therefore, this 103(a) rejection should be withdrawn.

b. Claims 11 and 13

Claims 11 and 13 were rejected under § 103(a) as being unpatentable over any of Stratman, Sarvie '697, or Bothum as modified by Wolff et al. as applied to claims 5, 6, 8-10, 14, 15, 17, 22, 23, 26-29, 32, 33, 39, and 40 and further in view of any of Hersey, McGuckin or Reiter. The Examiner claims that any of Stratman, Sarvie '697, or Bothum as modified by Wolff et al. shows the claimed invention except for the use of a spring biased jaw portion, and that any of Hersey, McGuckin or Reiter suggests that a clamp or pliers can have such a spring biased jaw portion to provide the tool with more flexibility. Applicants respectfully traverse.

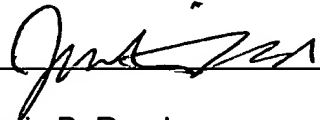
While Hersey, McGuckin or Reiter may suggest the use of a spring biased jaw portion, it remains that the combination of any of Stratman, Sarvie '697 or Bothum with Wolff et al. does not teach or suggest each and every feature of the claimed invention, as previously described. Therefore, any combination of these pieces of art with any of Hersey, McGuckin or Reiter would not show or suggest each and every feature of the claimed invention. Therefore, this 103(a) rejection should be withdrawn.

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IV. Conclusion

In conclusion, Applicants have overcome each of the rejections. The application is therefore in condition for allowance. If, for any reason, the Examiner believes that the amendments and remarks do not put the claims in condition for allowance, the undersigned attorney can be reached at (312) 245-5394 to resolve any remaining issues.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Justin B. Rand", is written over a horizontal line.

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